

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Nakagawa, K.

Serial No.: 09/688,203

Filed: October 16, 2000

For: METHOD OF MANUFACTURING SEMICONDUCTOR MEMORY DEVICE

Honorable Assistant Commissioner of Patents
Washington, D.C. 20231



Group Art Unit: 2823

Examiner: Brewster, W.

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**PETITION TO WITHDRAW FINALITY OF REJECTION AS PREMATURE
UNDER 37 C.F.R. §1.181**

Treated request to withdraw finality
Sir:

Applicants petition under 37 C.F.R. §1.181 that the finality of rejection be withdrawn in accordance with MPEP §706.07(c) for the above-identified Application. Applicants traverse that the record reflects that the procedure defined in MPEP §706.07(a) has been followed.

Specifically, MPEP §706.07(a) requires that "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor"

In the prosecution of the present Application, and as pointed out by Applicants in the Amendment under 37 CFR §1.111 filed on April 12, 2002, the first Office Action mailed on January 16, 2002, did not address all limitations in independent claim 1. The second Office Action mailed on December 4, 2002, added two new references (US Patent 6,265,739 to Yaegashi et al., and US Patent 5,824,584 to Chen et al.). The claim amendments in the Amendment filed April 12, 2002, do not address in any way this unaddressed limitation.

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That is, the Examiner clearly introduced a "new ground of rejection that is neither necessitated by applicant's amendment nor" As discussed in the concurrently-filed Amendment, currently labeled as being filed under 37 CFR §1.116, Applicants traverse that either the primary reference Yaegashi or the secondary reference Chen teach this claim limitation.

For at least the reason outlined above, Applicant petitions that the finality of rejection for the above-identified Application be withdrawn.

Respectfully submitted,

Date: 2/27/03



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